EXHIBIT 34

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

XOCKETS, INC., Plaintiff, v. **NVIDIA CORPORATION, MICROSOFT CORPORATION, and RPX CORPORATION,** Defendants.	Civil Action No. _____ **JURY TRIAL DEMANDED**

DECLARATION OF BRIAN HINMAN

I, Brian Hinman declare as follows:

1. I am the President and Chief Intellectual Property Officer of Xockets, Inc. ("Xockets"). I am submitting this declaration in support of Xockets' motion for a preliminary injunction. Unless otherwise specified, I have personal knowledge of the facts stated herein, and, if called as a witness, could and would testify to such facts competently under oath.

XOCKETS' TECHNOLOGY

2. In the early 2010s, Xockets developed a new accelerated computing architecture now known as a Data Processing Unit, or DPU. It is designed to provide hardware-like handling of computing operations at the speed of the network—or line rate—with software-like programmability that can form programmable logic pipelines of hardware accelerators for processing the data-intensive workloads independent of server processors and their conventional computing architectures. This programmable hardware acceleration in the network can run new, varied, and evolving cloud infrastructure services. It provides the versatility clouds require to offload and accelerate many different kinds of data-intensive workloads and processes, freeing up

server processors to run their main workloads or applications for customers at ever-increasing speeds and lower power costs.

3. To date, Xockets has obtained a number of patents covering many aspects of Xockets' DPU inventions. Xockets currently has over 60 patent applications directed to numerous other DPU inventions. Xockets' issued patents include: (i) Xockets' DPU Computing Architecture Patents (also known as the "***New Cloud Processor Patents***"), including U.S. Patent Nos. 11,080,209 ("the '209 Patent" – DPU Computing Architecture, Security), U.S. Patent No. 10,649,924 ("the '924 Patent" – DPU Network Overlay, Security), and U.S. Patent No. 11,082,350 ("the '350 Patent" – DPU Stream Processing); and (ii) Xockets' DPU Switching Architecture Patents (also known as the "***New Cloud Fabric Patents***"), including U.S. Patent No. 10,223,297 ("the '297 Patent" – DPU Cloud Network Fabric), U.S. Patent No. 9,378,161 ("the '161 Patent" – DPU Cloud Network Fabric), U.S. Patent No. 10,212,092 ("the '092 Patent" – DPU In-Network Computing), and U.S. Patent No. 9,436,640 ("the '640 Patent" – DPU In-Network Computing). These patents, including the '209 Patent, '924 Patent, '350 Patent, '297 Patent, '161 Patent, '092 Patent, and '640 Patent, are collectively referred to herein as the "Asserted Patents" or "Xockets Patents."

4. Xockets' patented inventions employ a groundbreaking computing architecture in the network—a reinvention from the ground up—to dramatically increase the speed and lower the costs of cloud distributed computing services. To do so, Xockets' patented DPU architecture enables clouds to offload to DPUs, accelerate, and isolate from server processors critical data-intensive tasks that would otherwise overburden server processors.

5. For example, the Xockets New Cloud Processor Patents describe offloading from server processors to offload processor modules in the network (DPUs), accelerating, and isolating

security, networking, and storage operations in cloud distributed computing. Xockets Patents also describe the use of DPUs for brokering collective communication between server processors (CPUs, GPUs, and hybrids of these server processors).

6. In addition, the Xockets' New Cloud Fabric Patents further describe using these DPUs to form a novel switching fabric or new cloud network fabric, including for in-network computing, without the limitations of existing cloud networks and standards. This new fabric is what enables the training of large AI models in a matter of weeks or months rather than many years as would otherwise be required.

MICROSOFT AND NVIDIA REFUSE TO NEGOTIATE FOR A LICENSE OR PURCHASE OF NVIDIA'S PATENTS

7. In early 2024, Xockets engaged in a process to sell or license its technology. As part of the effort, NVIDIA and Microsoft were approached about the Xockets' technology. Specific to NVIDIA, on March 27, 2024, Xockets' representative emailed NVIDIA's Vishal Bhagwati (Head of Corporate Development), Timothy Teter (Executive Vice President and General Counsel), David Shannon (EVP, Chief Administrative Officer and Secretary), and Rich Domingo (Director of Intellectual Property) Xockets' information and a proposed NDA. Xockets' representative separately followed up with Mr. Domingo on April 2 and 9 and June 5, and Gady Rosenfeld (NVIDIA's Vice President, DPU Business) on May 2. On April 30, Xockets' representative also sent a follow up email to his original March 27 email to Messrs. Bhagwati, Teter, Shannon, and Domingo.

8. Specific to Microsoft, on March 27, 2024, Xockets' representative emailed Microsoft's Christopher Young (Executive Vice President Business Development), Michael Wetter (Corporate Vice President, Corporate Development), and Nicholas Kim (Senior Corporate

Counsel, IP Litigation) the teaser and a proposed NDA. He forwarded that email to Microsoft's Steve Bathiche a day later and Brad Smith (President) on April 2. On April 30, Xockets' representative also followed up the original email with Messrs. Young, Wetter, and Kim, and separately with Mr. Smith.

9. In May 2024, RPX's CEO, Dan McCurdy, contacted me. During the conversations, Mr. McCurdy made statements to the effect that Mr. McCurdy was being directed by members who were aware of an available portfolio of intellectual property. I was affiliated with Xockets, and the Xockets portfolio was the only available portfolio that I was involved with at the time. Mr. McCurdy indicated he would approach Xockets' sellers agent to consider next steps.

HARM TO XOCKETS' BUSINESS

10. Since RPX has become involved, Xockets has been unable to license or sell its patents to any potential buyer or licensee (including Microsoft, NVIDIA, or RPX) at a fair market rate. If Xockets is unable to obtain a fair return on its patents, or is unable to license or sell its patents at all, this will eventually drive Xockets out of business.

11. Xockets' business strategy has included seeking potential buyers for its patent portfolio by either selling its patents outright or offering an exclusive license. Because Microsoft and NVIDIA will not negotiate with Xockets on an individual basis, and RPX will only negotiate for a license on behalf of its members collectively, Xockets has been prevented from executing its business plan.

12. Xockets is also currently in acquisition phase and trying to sell its business to potential investors. The fact that Xockets has not been able to license its patents at fair market rates has depressed the company's value in the eyes of investors. This has discouraged potential buyers.

I declare under penalty of perjury and the laws of the United States of America that the foregoing is true.

Executed on September 4, 2024

By: 

Brian Hinman